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**MAR 27 2006**

**OFFICE OF PETITIONS**

In re Application of	:	
Michael Francis Niemi	:	
Application No. 10/621,013	:	DECISION ON PETITION
Filed: July 17, 2003	:	TO MAKE SPECIAL UNDER
For: SCANNING DEVICE WITH SENSORS AND	:	37 CFR 1.102(c)(2)
CAMERA OR TRICORDER	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed February 15, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure is not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

The materiality standard does not permit an applicant to speculate as to how a

hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by providing a sensor. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:                    Mail Stop PETITION  
                                 Commissioner for Patents  
                                 P. O. Box 1450  
                                 Alexandria, VA 22313-1450

By hand:                    U. S. Patent and Trademark Office  
                                 Customer Service Window, Mail Stop Petitions  
                                 Randolph Building  
                                 401 Dulany Street  
                                 Alexandria, VA 22314

By FAX:                    (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2622 for action in its regular turn.



Amelia Au  
Petitions Examiner  
Office of Petitions